

If the owner is determined ineligible pursuant to § 401.101 or § 401.403, the Restructuring Plan must include a condition that the owner sell or transfer the property to a purchaser acceptable to HUD.

(c) *Owner's notice of intent to sell or transfer.* If a sale or transfer is required under paragraph (b) of this section:

(1) The owner must provide notice to the PAE affirming the owner's intent to sell or transfer the property. This notice must be received by the PAE no later than 30 days after a notice of rejection under § 401.101 or § 401.403 has become a final determination under subpart F of this part.

(2) The owner must cooperate in selling or transferring the property. Failure to do so will result in the PAE's determination to reject the owner's request for a Restructuring Plan. The owner must distribute and publish, in an appropriate publication, a notice to potential purchasers that describes the property, proposed terms of sale, and procedures for submitting a purchase offer. The notice in form and substance must be acceptable to HUD, and must inform potential offerors of a preference for priority purchasers.

(3) The PAE may develop a Restructuring Plan involving a sale or transfer to a non-priority purchaser only if the PAE determines that there is no interested qualified priority purchaser, or that a feasible Restructuring Plan involving a sale or transfer to a qualified priority purchaser cannot be developed.

(d) *Informing PAE; approval required.* The owner must inform the PAE of any offer to purchase the property and the owner must advise the PAE of the substance and on-going status of the owner's discussions with any prospective purchaser. The owner's acceptance of the offer must be subject to PAE approval, and HUD approval of the Restructuring Plan.

§ 401.481 Subsidy layering limitations on HUD funds.

(a) *PAE subsidy layering certification required for Restructuring Plan.* The PAE must certify to HUD that any Restructuring Plan for which it submits a proposed Restructuring Commitment meets the requirements of either paragraph (d) or (e) of this section.

(b) *Purpose of subsidy layering certification.* The purpose of the subsidy layering certification is to ensure that any HUD assistance provided to the owner of a project pursuant to a Restructuring Plan is no more than is necessary to permit the project to continue to house tenants with an income mix comparable to the income mix of the project before the Restructuring Plan is implemented, after taking into account other Government assistance described in section 102(b)(1) of the Department of Housing and Urban Development Act of 1989 (42 U.S.C. 3545(b)(1)).

(c) *Relationship to section 102(d) of HUD Reform Act.* HUD is not required to perform a separate subsidy layering analysis under section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)), section 911 of the Housing and Community Development Act of 1992 (42 U.S.C. 3545 note), or § 4.13 of this title for any HUD assistance that is included in the Restructuring Plan. HUD will adopt the PAE certification under this section if a HUD certification would otherwise be required under section 102(d).

(d) *Certification under existing HUD guidelines.* If the PAE has delegated authority from HUD to make section 102(d) subsidy layering certifications in accordance with section 911 of the Housing and Community Development Act of 1992, the PAE may comply with this section by using a procedure substantially similar to the procedure described in the Administrative Guidelines published on December 15, 1994 (59 FR 64748), or any subsequent procedure adopted by HUD to implement section 911.

(e) *Other procedures.* If the PAE does not have the delegated authority described in paragraph (d) of this section, the PAE must submit to HUD for approval proposed procedures for making the subsidy layering certification under this section. Any procedures must conform to the procedures described in paragraph (d) of this section to the extent feasible and appropriate.

§ 401.483 Leasing units to certificate and voucher holders.

A Restructuring Plan must prohibit any refusal of the owner to lease a unit

solely because of the status of the prospective tenant as a section 8 certificate or voucher holder.

§ 401.484 Property management standards.

(a) *General.* Each PAE is required by section 518 of MAHRA to establish management standards consistent with industry standards and HUD guidelines. The management standards must be included or referenced in the Restructuring Plan.

(b) *HUD guidelines.* At a minimum, the PAE's management standards must require the project management to:

(1) Protect the physical integrity of the property over the long term through preventative maintenance, repair or replacement;

(2) Ensure that the building and grounds are routinely cleaned;

(3) Maintain good relations with the tenants;

(4) Protect the financial integrity of the project by operating the property with competitive and reasonable costs and maintaining appropriate property and liability insurance at all times;

(5) Take all necessary measures to ensure the tenants' physical safety; and

(6) Comply with other provisions that are required by HUD, including termination of the management agent for cause.

(c) *Conflicts of interest.* The PAE management standards must also conform to any guidelines established by HUD, and industry standards, governing conflicts of interest between owners, managers and contractors.

§ 401.500 Required notices to third parties.

(a) *General.* The PAE must solicit, and document the consideration of, tenant and local community comments. As a minimum, the notices described in paragraphs (b) and (c) of this section, in form and substance acceptable to HUD, must be provided. The PAE may require the owner to give the notices if permitted by HUD.

(b) *Notice of intent to restructure and consultation meeting.* (1) This notice must include at a minimum:

(i) The project, including its name and FHA Project Number;

(ii) The responsible PAE and contact person, including the address and telephone number;

(iii) The owner's notice of intent to restructure through the Mark-to-Market Program; and

(iv) The date of expiration of the project-based assistance.

(2) This notice must state how comments may be provided to the PAE regarding any of the following: the physical condition of the property, whether the rental assistance should be tenant-based or project-based, any proposed sale or transfer of the property, and other matters regarding the property and its management. The notice must establish the date, time and place for a public meeting to be held no sooner than 20 days and no later than 60 days following the date of this notice. The public may provide written comments up to the date of the meeting.

(c) *Notice of completion of Restructuring Plan.* Within 10 days after either the execution of the Restructuring Commitment or a decision not to restructure, the PAE must provide a notice that describes the completed Restructuring Plan and Restructuring Commitment or the reasons not to restructure. Any completed Restructuring Plan and Restructuring Commitment must be made available during normal business hours to the public, subject to Federal, State and local laws restricting access to any information in any of these documents.

§ 401.501 Who is entitled to receive notices under § 401.500?

(a) *Recipients of all notices.* Each notice required under § 401.500 must be given to:

(1) The tenant for each unit in the project or a tenant organization; and

(2) The Chief Executive Officer of the unit of local government and the Director of the Public Housing Authority with jurisdiction over the project location.

(b) *Other recipients.* The PAE may require notices to be sent to neighborhood representatives and other affected parties identified by the PAE or HUD.